

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

v.

BIANNEURY PENA,
a/k/a "Charly,"

Defendant.

SUPERSEDING INDICTMENT

S2 24 Cr. 497 (DLC)

COUNT ONE
(Firearms Trafficking Conspiracy)

The Grand Jury charges:

1. From at least in or about May 2024 through at least in or about June 2024, in the Southern District of New York and elsewhere, BIANNEURY PENA, a/k/a "Charly," the defendant, and others known and unknown, willfully and knowingly combined, conspired, confederated, and agreed together and with each other to traffic in firearms, in violation of Title 18, United States Code, Sections 933(a)(1) and (a)(2).

2. It was a part and an object of the conspiracy that BIANNEURY PENA, a/k/a "Charly," the defendant, and others known and unknown, would and did ship, transport, transfer, and cause to be transported, and otherwise dispose of a firearm to another person in and otherwise affecting interstate and foreign commerce, and did so knowing and having reasonable cause to believe that the use, carrying, and possession of a firearm by the recipient would constitute a felony, in violation of Title 18, United States Code, Section 933(a)(1).

3. It was further a part and an object of the conspiracy that BIANNEURY PENA, a/k/a "Charly," the defendant, and others known and unknown, would and did receive from another person a firearm in and otherwise affecting interstate and foreign commerce, knowing and having

reasonable cause to believe that such receipt would constitute a felony, in violation of Title 18, United States Code, Section 933(a)(2).

(Title 18, United States Code, Section 933(a)(3).)

COUNT TWO
(Possession of Firearms by an Illegal Alien)

The Grand Jury further charges:

4. On or about June 7, 2024, in the Southern District of New York and elsewhere, BIANNEURY PENA, a/k/a “Charly,” the defendant, knowing the he was an alien illegally and unlawfully in the United States, knowingly possessed firearms, to wit, a Glock .40 caliber model 23 handgun, serial number GZH506, and an Aero Precision model M4E1 firearm, serial number M4 0069346, and the firearms were in and affecting commerce.

(Title 18, United States Code, Section 922(g)(5).)

COUNT THREE
(Conspiracy to Distribute Narcotics)

The Grand Jury further charges:

5. From at least in or about May 2024 through at least in or about June 2024, in the Southern District of New York and elsewhere, BIANNEURY PENA, a/k/a “Charly,” the defendant, and others known and unknown, intentionally and knowingly combined, conspired, confederated, and agreed together and with each other to violate the controlled-substance laws of the United States.

6. It was a part and an object of the conspiracy that BIANNEURY PENA, a/k/a “Charly,” the defendant, and others known and unknown, would and did distribute and possess with intent to distribute a controlled substance, in violation of Title 21, United States Code, Section 841(a)(1).

7. The controlled substance involved in the offense was 500 grams and more of mixtures and substances containing a detectable amount of cocaine, in violation of Title 21, United States Code, Section 841(b)(1)(B).

(Title 21, United States Code, Section 846.)

FORFEITURE ALLEGATIONS

6. As a result of committing the offense alleged in Count One of this Indictment, BIANNEURY PENA, a/k/a “Charly,” the defendant, shall forfeit to the United States, pursuant to Title 18, United States Code, Section 934, any property constituting, or derived from, any proceeds PENA obtained, directly or indirectly, as the result of said offense; and any of PENA’s property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, such offense, including but not limited to:

- a. a Glock .40 caliber model 23 handgun, serial number GZH506; and
- b. an Aero Precision model M4E1 firearm, serial number M4 0069346.

7. As a result of committing the offense alleged in Count Two of this Indictment, BIANNEURY PENA, a/k/a “Charly,” the defendant, shall forfeit to the United States, pursuant to Title 18, United States Code, Section 924(d)(1) and Title 28, United States Code, Section 2461(c), any and all firearms and ammunition involved in or used in said offense, including but not limited to:

- a. a Glock .40 caliber model 23 handgun, serial number GZH506; and
- b. an Aero Precision model M4E1 firearm, serial number M4 0069346.

8. As a result of committing the offense alleged in Count Three of this Indictment, BIANNEURY PENA, a/k/a “Charly,” the defendant, shall forfeit to the United States, pursuant to Title 21, United States Code, Section 853, any and all property constituting, or derived from, any

proceeds obtained, directly or indirectly, as a result of said offense and any and all property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, said offense, including but not limited to a sum of money in United States currency representing the amount of proceeds traceable to the commission of said offense.

Substitute Assets Provision

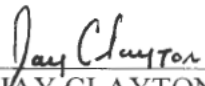
9. If any of the above-described forfeitable property, as a result of any act or omission of the defendant:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third person;
- c. has been placed beyond the jurisdiction of the Court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be subdivided without difficulty;

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p) and Title 28, United States Code, Section 2461(c), to seek forfeiture of any other property of the defendant up to the value of the above forfeitable property.

(Title 18, United States Code, Sections 924 and 934;
Title 21, United States Code, Section 853; and
Title 28, United States Code, Section 2461.)


FOREPERSON


JAY CLAYTON
United States Attorney